

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548****FILE:** B-207517**DATE:** April 13, 1983**MATTER OF:** Judy A. Whelan - Subsistence Expense -
Meals Provided by Government**DIGEST:**

Where employee is authorized travel to attend a training conference in a high rate geographical area and lunches are provided as an integral part of the training, her reimbursement for actual subsistence expenses otherwise limited to \$75 a day must be reduced by the value of the lunches to the employee.

This action is in response to a request for an advance decision from a certifying officer of the Bonneville Power Administration (BPA), Department of Energy, on the question of whether it is permissible to pay Ms. Judy A. Whelan, a BPA employee, actual subsistence expenses without a deduction for luncheons paid for by the Government while Ms. Whelan was attending a conference.

We conclude that an appropriate deduction must be made from the travel voucher for the meals provided.

Ms. Whelan was authorized reimbursement of travel and subsistence expenses to attend "The 4th Annual Government Cash Managers Conference," held in Washington, D.C., between February 24 and 26, 1982. The registration fee for this conference, which included continental breakfasts and two luncheons, was \$395 paid directly by BPA. Ms. Whelan stayed at the hotel hosting the conference at a daily cost of \$88.80 which was consistent with the rate advertised by the sponsor. However, the conference lodging cost incurred exceeded the maximum statutory actual subsistence allowance of \$75 per day in Washington, D.C. Ms. Whelan filed a travel voucher in which she claimed actual subsistence expenses of \$75 per day for February 23 to 25 and \$11.50 for breakfast and lunch on February 26, 1982. Because the cost of two luncheons on February 23 and 24, 1982, was paid by BPA, the certifying officer has proposed a deduction of \$15 for each luncheon based upon cost information provided by the sponsor. The certifying officer has not proposed a reduction for the continental breakfasts, presumably because such breakfasts are generally very limited in nature and do not represent a complete meal.

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In 60 Comp. Gen. 181 (1981), we held that the statutory limitations contained in 5 U.S.C. § 5702 on per diem rates and actual subsistence rates are applicable regardless of whether the Government reimburses the employee or otherwise pays for meals or lodging furnished without direct cost to the employee. Here, if Ms. Whelan is reimbursed \$75 for her room and the Government pays \$15 for her lunch, then the total cost paid by the Government exceeds the statutory limitation contained in 5 U.S.C. § 5702. Therefore, if Ms. Whelan was reimbursed under 5 U.S.C. § 5702, our decision in 60 Comp. Gen. 181, would require the Government to limit Ms. Whelan's reimbursement to \$60 for the room so that the total cost to the Government would not exceed \$75.

However, since Ms. Whelan's expenses were training expenses, they are reimbursable under 5 U.S.C. § 4109. In 60 Comp. Gen. 181 we stated that if the training cost charges include lodging and meal costs as an integral part of the charges they would be considered a "necessary cost of training" payable by the Government. A reduced per diem rate, if appropriate, still would be allowed to the employee. 60 Comp. Gen. 181, 184.

In determining whether meals should be considered an integral part of the cost of training, the indicia to be considered include whether the sponsor provided a separate charge for the meal; whether the meal could be declined at the attendee's option with an appropriate reduction in fee; and whether the meal was provided as accompaniment to a substantive program. In this case a separate charge was not provided nor was the attendee given the option of not attending for a reduced fee, and a substantive program did accompany luncheon. Therefore, since Ms. Whelan's meal costs were an integral part of the training course, a reduction should be made in her subsistence reimbursement. However, the full \$15 reduction is not required since the statutory limitation contained in 5 U.S.C. § 5702 is not applicable to the additional subsistence expenses required by the training assignment under 5 U.S.C. § 4109. See generally, Daniel B. Pevser, B-202692, December 13, 1981, wherein a reduction in actual subsistence expenses was required for the cost of a workshop luncheon paid by the agency. Also see 5 C.F.R. § 410.603(a), which requires an

appropriate reduction of subsistence payments for extended training assignments if lodging or meal costs are included in the training fees.

The final issue to be decided is the proper amount that Ms. Whelan's subsistence expenses should be reduced. We recognize that if a reduction is made solely on the basis of the cost to the Government, an employee may be unfairly penalized for attending a training course. For example, if in this case the conference provided breakfast, lunch, and dinner at a cost of \$15 per meal then, based on the cost to the Government, the employee would only have \$30 for lodgings while in Washington. In 5 Comp. Gen. 957 (1926) we discussed the reasonable value of allowances in kind given to certain employees. We held that the value of the allowances is not necessarily to be limited to the cost of the allowances to the Government, but deductions should be made on the basis of reasonable value of the allowances to the employee during the particular period and in the particular locality where the allowances were received.

Accordingly, only the reasonable value of the lunches should be deducted from the daily actual expenses rate. We were advised by the BPA that, if the employee had been reimbursed by the per diem method and had been provided a lunch at Government expense, BPA regulations provide for deducting 20 percent of the \$23 daily meal allowance from the per diem rate for the provided lunch. See FTR para. 1-7.3c(1). That constitutes BPA's determination of the reasonable value to an employee of a lunch provided at Government expense in a per diem area. We believe that the resulting amount of \$4.60 is also the appropriate amount to deduct for the reasonable value of the lunch provided in a high cost geographical area. Therefore, we would have no objection if BPA uses the guidelines it has established for a per diem area to determine the appropriate deduction in a high rate geographical area.

We also note that in this case the traveler was not aware that a deduction was necessary from the \$75 subsistence reimbursement rate. Whenever possible the travel order should reflect that a deduction is to be made from the maximum subsistence allowance because the Government has incurred meal or lodging costs as part of the training or meeting costs.

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Therefore, a deduction for the two lunches in question is required to be made. However, BPA should reevaluate its determination of reasonableness for the amount of deduction for the two lunches and make an adjustment in accordance with the guidance set forth above.

for 
Comptroller General
of the United States